

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 85-0489-RGS

UNITED STATES OF AMERICA

v.

METROPOLITAN DISTRICT COMMISSION, et al.

CIVIL ACTION NO. 83-1614-RGS

CONSERVATION LAW FOUNDATION
OF NEW ENGLAND, INC.

v.

METROPOLITAN DISTRICT COMMISSION

SCHEDULE SEVEN
COMPLIANCE ORDER NUMBER 236

June 30, 2015

STEARNS, D.J.

This is the two hundred and thirty-sixth Compliance Order that has issued over the course of this litigation. On June 15, 2015, the Massachusetts Water Resources Authority (MWRA) filed its Quarterly Compliance and Progress Report. The United States and the Conservation Law Foundation have each declined to file a response.

I. Schedule Seven

The only scheduled activity on the court's Schedule Seven was the submission of the 2015 CSO Progress Report, which was duly noted and reviewed in the court's Compliance Order Number 235.

A. Progress Reported

1. Combined Sewer Overflow Program

a. Control Gate and Floatables Control at Outfall MWROO3 and Rindge Avenue Siphon Relief

This construction contract, which is part of the master plan to improve the hydraulic performance of the Alewife Brook interceptor system, is now 85 percent completed and on schedule for full completion in October of 2015. In the past quarter, the contractor completed the structural work at RE031 and RE032; installed and tested the automated outflow weir gate, the flap gate, and the underflow baffle for floatables control at RE031; installed stop log grooves at RE032; secured both sites with new top slabs and entry hatches; and backfilled the excavations to grade at both sites. In addition, the gear drive has been installed on the new weir gate, with all necessary electrical work expected to be completed by Eversource by today's date. The last major project component, the installation by Verizon of a service extension to enable the Supervisory Control and Data Acquisition system (which allows the off-site control and monitoring of the automated gate and

wastewater flow), is awaiting a permitting decision by the Cambridge Pole and Conduit Committee.

b. CAM004 Sewer Separation

Work is continuing apace on Contracts 8A, 8B, 9, and Concord Lane, the components of the City of Cambridge CAM004 sewer separation project, in expectation of meeting the December 2015 milestone. The \$17.8 million Contract 8A, which involves the separation of combined sewers in the 68-acre area east of Fresh Pond Parkway, is essentially complete, with only surface restoration and beautification work remaining. The \$31.2 million Contract 8B, which involves the separation of combined sewers in an 83-acre site between Concord Avenue and Brattle Street, is now 90 percent complete. Installation of storm drain laterals is underway on Appleton, Chilton, Fayerweather, and Reservoir Streets, Granville Road, Royal Avenue, and Vassal Lane, while water main installation has been completed on Gurney, Fayerweather, Reservoir, and Blakeslee Streets and Lincoln Lane. The MWRA reports that the contractor is expected to complete work on Contract 8B by the original milestone date of September 2015, which will open the 90-day window necessary to complete related sewer and drain work in the Contact 9 area. Surface restoration work in the Contract 8B area will continue as planned through December of 2016.

The MWRA reports that the \$24.4 million Contract 9, which provides for sewer separation in the 60-acre area extending from Fresh Pond Parkway to the intersection of Concord and Huron Avenues, is now 73 percent complete. Installation of water mains is underway on Chilton, Field, and Fern Streets and Bay State Road, while storm drains and sewers are being installed on Garden and Chilton Streets. The City of Cambridge anticipates that the work will be substantially completed by December of 2015, in compliance with Schedule Seven. Surface restoration work in the Contract 9 area will be completed as planned in August of 2016.

c. Concord Lane

As previously noted, the MWRA and the owner of the property abutting Concord Lane and the adjacent Fresh Pond Mall were able to come to an amicable agreement over a third right of entry. The notice to commence construction issued on March 27, 2015, with CSO-related work expected to be completed in September of 2015. This will allow the work on Contract 9, including the redirection of stormwater flows to the Cambridge Alewife Wetland and the Little River, to proceed in compliance with Schedule Seven.

d. Reserved Channel Sewer Separation

The Boston Water and Sewer Commission (BWSC) has completed five of the nine contracts that comprise the overall project – the \$4.1 million Contract 1, the \$5.9 million Contract 2, the \$1.2 million Contract 7, the \$11.8 million Contract 3A, and the \$12.8 million Contract 3B. The \$11.4 million Contract 4 (which involves sewer separation in a 182-acre area tributary to outfalls BOS076, BOS078, and BOS079), is now nearing completion.

In April of 2015, the BWSC resumed work on the \$6.8 million Contract 8 (pavement restoration) after a winter weather disruption. Contract 8 is expected to be completed by October of 2015. The \$211,000 Contract 6 (disconnecting roof drain downspouts) is complete save for a few remaining private property owners who have yet to execute waivers. The BWSC will issue third notices to the holdout property owners this coming quarter. The \$4.8 million Contract 5 (pipe cleaning and sewer relining in the Reserved Channel area), is now 82 percent complete with respect to the cleaning work and 40 percent complete with regard to pipe lining. Contract 5 is to be substantially completed by November of 2015, in compliance with Schedule Seven.

II. Comments

Like the MWRA, the court noted with pleasure the positive public reception given to the study conducted by Save the Harbor/Save the Bay,

which confirmed that the urban beaches in metropolitan Boston are now among the cleanest in the United States, eclipsing even Waikiki Beach in Honolulu and South Beach in Miami. The court is particularly pleased that the beaches of South Boston were safe for swimming over the entire past summer, a true milestone in the cleanup of Boston Harbor. The court recalls the dedication on September 12, 2007, of the South Boston CSO Storage Tunnel and the prediction that after completion of the tunnel, “beach closings will be a very rare occurrence.” No one imagined that an entire summer would go by with no closings at all. The success is a tribute to the architects, engineers, workers, and MWRA managers who had the vision to propose the bringing of the tunnel project into the master plan for the Harbor. The court also notes the continuing improvement of water quality in the Charles River, which is now earning B+ (2015) and A- (2014) marks from the EPA as compared to the D grades of the 1980’s. Although much work on the Charles remains to be done, an A+ grade is not out of the question in the foreseeable future, so long as cleanup deadlines continue to be met and the problems caused by climate change and surface water runoff are addressed. Finally, the court joins in extending its congratulations to the MWRA on the 30th anniversary of its creation, and paraphrasing Advisory Board Executive Director Joseph Favaloro, to its heroes, sung and unsung.

ORDER

The parties are ordered to report to the court as previously scheduled.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE